

Article - Public Utilities

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§12–135.

(a) (1) A person that performs an excavation or demolition without first providing the notice required under § 12–124(a) of this subtitle and damages, dislocates, or disturbs an underground facility is deemed negligent and is subject to a civil penalty assessed by the Authority not exceeding:

(i) \$2,000 for the first offense; and

(ii) subject to subsection (c) of this section, \$4,000 for each subsequent offense.

(2) Instead of or in addition to a civil penalty assessed under this subsection, the Authority may:

(i) require that a person:

1. participate in damage prevention training; or

2. implement procedures to mitigate the likelihood of damage to underground facilities; or

(ii) impose other similar measures.

(3) A person that violates any provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding \$2,000.

(b) (1) This subsection applies if a proceeding has not been initiated before the Authority.

(2) A court of competent jurisdiction may assess a civil penalty of up to 10 times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance against a person that has committed a subsequent offense under subsection (a)(1) of this section.

(3) An action to recover a civil penalty under this subsection shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(4) The party bringing an action under this subsection may recover reasonable attorney's fees.

(c) The Authority may not assess a civil penalty under subsection (a)(1)(ii) of this section if an action to recover a civil penalty has been brought under subsection (b) of this section.

(d) All civil penalties recovered under this section shall be paid into the Fund.

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